

January 25, 2019

Mr. John Canoles
Eco-Science Professionals, Inc.
P.O. Box 5006
Glen Arm, MD 21057

Re: Roth Property at 1000 Edmondson Avenue
Forest Conservation Variance
Tracking #01-19-2902

Dear Mr. Canoles:

A request for a variance from the Baltimore County Code Article 33 Environmental Protection and Sustainability, Title 6 Forest Conservation was received by this Department on January 15, 2019. If granted, the variance would allow removal of two (2) specimen trees in order to subdivide the subject property and construct an additional single family dwelling. One multi-family dwelling already exists on the property. The specimen trees to be removed include a 39-inch diameter-at-breast-height (DBH) silver maple in good condition and a 32-inch DBH white ash in poor condition. Neither specimen tree is within forest. There are four other specimen trees on the property that will not be impacted by construction, one of which is to be retained in a Forest Buffer Easement.

The Director of the Department of Environmental Protection and Sustainability (EPS) may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of the property. The applicant is seeking to subdivide and add an additional dwelling to the subject property. As an occupied, multi-family dwelling already exists on the property, full application of the law would not deprive the applicant of all beneficial use of the property. Consequently, we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d) (2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. The petitioner's plight is due the distribution of the specimen trees across the site rather than general conditions of the neighborhood. Therefore, we find that the second criterion has been met.

The third criterion (Subsection 33-6-116(d) (3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The surrounding neighborhood consists of predominantly single-family residences and forested areas. Therefore, we find that the addition of another single-family home will not alter the essential character of this neighborhood and that this criterion has been met.

The fourth criterion (Subsection 33-6-116(e) (1) of the Code) requires that the granting of the special variance will not adversely affect water quality. The project will not directly impact any wetland, stream, floodplain, or associated buffers. A Forest Buffer Easement will be recorded at the northwest corner of the property to protect an isolated wetland on the neighboring forested lot, and previously mowed forest buffer will be planted with trees. As such, this Department finds that the proposed variance will not adversely affect water quality. Consequently, this criterion has been met.

The fifth criterion (Subsection 33-6-116(e) (2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has not taken any actions resulting in conditions or circumstances requiring this special variance prior to its request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33, Title 6 of the Baltimore County Code. Although two specimen trees are to be removed, no forest clearing is proposed, and one of the trees is in poor condition. Moreover, the applicant proposes planting four additional trees in the Forest Buffer Easement as mitigation for the removal of the viable specimen tree and to meet the 0.2-acre afforestation requirement via payment of a fee-in-lieu. Finally, the specimen trees to remain outside of forest will be protected during construction in accordance with an approved Forest Conservation Plan. Therefore, we find that this variance is consistent with the spirit and intent of Article 33, Title 6 of the Baltimore County Code and that this criterion has been met.

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Based on our review, this Department finds that all required variance criteria have been met. Therefore, the requested variance is hereby approved in accordance with Section 33-6-116 of the Baltimore County Code with the following conditions:

1. Mitigation for the removal of the 39-inch DBH silver maple in good condition shall be addressed by planting four one-inch caliper native trees in the proposed Forest Buffer Easement. The four trees shall be planted by April 16, 2020. Mitigation for removal of the white ash in poor condition is not required.
2. A final FCP detailing the protection of the remaining specimen trees shall be submitted to EPS and approved prior to minor subdivision approval.
3. The following note must be on all subsequent plans for this development project:

“A variance was granted on January 25, 2019 by Baltimore County Dept. of Environmental Protection and Sustainability to remove two specimen trees. Conditions were placed on this variance to ensure that the spirit and intent of the Forest Conservation Law were met, including the planting of four one-inch caliper native trees in an unforested Forest Buffer Easement.”

This variance approval does not exempt future development activities or future removal of specimen trees at this site from compliance with Baltimore County's Forest Conservation Law.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the party responsible for meeting the conditions of this variance sign the statement below and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please call Ms. Libby Errickson at (410) 887-3980.

Sincerely yours,

David V. Lykens
Acting Director

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DVL/lbe

- c. Mr. Mark Hufnagel, 1000 Edmondson LLC
Ms. Bernadette Moskunas, Site Rite Surveying
Ms. Marian Honeczy, Maryland Department of Natural Resources

I/we agree to the above conditions to bring my/our property into compliance with
Baltimore County's Forest Conservation Law.

Owner's Signature

Date

Printed Name